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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

SEP 23 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In re Applications of

DAVID A. RINGER

et al.

For Construction Permit
Channel 280A
Westerville, Ohio

) MM DOCKET NO. 93-107
)
) File No. BPH-911230MA
) through
) File No. BPH-911231MC
)
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To: The Review Board

PETITION TO INTERVENE

Pursuant to Section 1.223 of the Commission's rules, Radio Stations WPAY/WPFB, Inc., licensee of Radio Station WPAY-FM ("Petitioner" or "WPAY-FM") hereby petitions the Review Board to permit it to intervene in the captioned proceeding as a party in interest pursuant to subsection (a) of the said Rule, or pursuant to subsection (b) as a "person desiring to participate as a party."

In the captioned proceeding, applicant Shellee F. Davis ("Davis"), applicant ASF Broadcasting Corp. ("ASF") and applicant David A. Ringer ("Ringer") have each, by amendment to their respective applications, proposed a site short spaced according to Commission regulations with WPAY-FM.¹ Since the petitions for leave to amend filed by applicants Davis, ASF and Ringer occurred after issuance of a hearing designation order, the Commission

¹ An Opposition to the Petitions filed by Davis and ASF was tendered by WPAY-FM August 30, 1994. Subsequent to that date, WPAY-FM learned that David A. Ringer had also petitioned for leave to amend and specified a site short spaced to WPAY-FM. An Opposition to that petition will be filed within the next several days.

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obviously could not have recognized WPAY-FM as a party in interest and required service upon it, hence, this petition for leave to intervene is required in accord with Section 1.223 of the rules and Section 309(e) of the Communications Act. Moreover, Section 1.223(c) permits intervention at any time upon issuing of "good cause". See WFTL Broadcasting Co. v. FCC, 376 F.2d 782, 784 (D.C. Cir. 1967); Spanish International Broadcasting Co. v. FCC, 385 F.2d 615, 623 (D.C. Cir. 1967). Upon a showing of "good cause", the Commission can permit intervention at any time by any person regardless of whether that person is a "party in interest". The obvious purpose of permitting intervention is to protect the public interest.

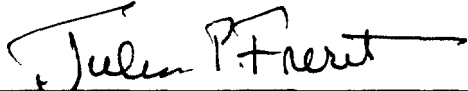
WPAY-FM will suffer irreparable injury if the aforementioned three applicants are permitted to amend to specify short-spaced sites, to the extent that WPAY-FM may well be precluded from changing its own site, antenna height or other operating parameters. Thus, WPAY-FM may suffer a direct, tangible, and substantial injury and therefore is an "aggrieved party" within the meaning of Section 402(b)(6) of the Communications Act.

As a radio station aggrieved (or potentially aggrieved), and a party in interest since its present and future operation may be

significantly affected by the proposed amendments of applicants Davis, ASF and Ringer, WPAY-FM should be permitted to intervene in this proceeding.

Respectfully submitted,

RADIO STATIONS WPAY/WPFB, INC.

By 
Julian P. Freret
Its Counsel

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September 23 , 1994

CERTIFICATE OF SERVICE

I, Margaret A. Ford, Office Manager of the law firm of Booth, Freret & Inlay, do certify that copies of the foregoing PETITION TO INTERVENE were mailed this 23rd day of September, 1994, via U. S. Mail, postage prepaid, first class, to the offices of the following:

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Hearing Branch, Mass Media Bureau
Federal Communications Commission
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Washington, D. C. 20554

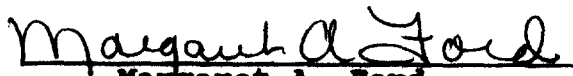
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